

HOUSE BILL 847

M3, C5

11r2553

By: **Delegates Mitchell, Braveboy, Cane, Carr, Gaines, Glenn, Healey, Holmes, Tarrant, Walker, and Wilson**

Introduced and read first time: February 11, 2011

Assigned to: Environmental Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Environment – Permitting Process – Environmental Justice Review**

3 FOR the purpose of requiring the Department of the Environment, in consultation
4 with the Commission on Environmental Justice and Sustainable Communities
5 and the Department of Health and Mental Hygiene, to develop certain maps on
6 or before a certain date; prohibiting the Department of the Environment from
7 issuing or renewing certain permits until a permit applicant conducts an
8 Environmental Justice Review; requiring the Department of the Environment
9 to make certain determinations; requiring a permit applicant to submit certain
10 information to the Department of the Environment under certain
11 circumstances; establishing penalties for certain violations; authorizing the
12 Department of the Environment to adopt regulations to implement this Act;
13 repealing a certain definition; altering a certain reporting requirement; defining
14 certain terms; providing for a delayed effective date; and generally relating to
15 environmental justice in the State.

16 BY renumbering

17 Article – Environment

18 Section 1–701

19 to be Section 1–705

20 Annotated Code of Maryland

21 (2007 Replacement Volume and 2010 Supplement)

22 BY adding to

23 Article – Environment

24 Section 1–701 through 1–704

25 Annotated Code of Maryland

26 (2007 Replacement Volume and 2010 Supplement)

27 BY repealing and reenacting, with amendments,

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Article – Environment
2 Section 1–705
3 Annotated Code of Maryland
4 (2007 Replacement Volume and 2010 Supplement)
5 (As enacted by Section 1 of this Act)

6 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
7 MARYLAND, That Section(s) 1–701 of Article – Environment of the Annotated Code of
8 Maryland be renumbered to be Section(s) 1–705.

9 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland
10 read as follows:

11 **Article – Environment**

12 **1–701.**

13 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
14 INDICATED.

15 (B) “COMMISSION” MEANS THE COMMISSION ON ENVIRONMENTAL
16 JUSTICE AND SUSTAINABLE COMMUNITIES.

17 (C) (1) “CUMULATIVE IMPACT” MEANS THE IMPACT ON THE
18 ENVIRONMENT, COMMUNITY, OR HEALTH OF PERSONS THAT RESULTS FROM
19 THE EFFECT OF AN ACTION WHEN ADDED TO THE EFFECTS OF OTHER PAST,
20 PRESENT, AND REASONABLY FORESEEABLE FUTURE ACTIONS TAKEN BY ANY
21 PERSON.

22 (2) “CUMULATIVE IMPACT” MAY INCLUDE ECOLOGICAL,
23 AESTHETIC, HISTORIC, CULTURAL, ECONOMIC, LAND USE, POPULATION
24 DENSITY, SOCIAL, AND HEALTH EFFECTS OF AN ACTION.

25 (D) “ENVIRONMENTAL JUSTICE” MEANS THE FAIR TREATMENT AND
26 MEANINGFUL INVOLVEMENT OF ALL PEOPLE REGARDLESS OF RACE, COLOR, OR
27 INCOME WITH RESPECT TO THE DEVELOPMENT, IMPLEMENTATION, AND
28 ENFORCEMENT OF ENVIRONMENTAL LAWS, REGULATIONS, AND POLICIES.

29 (E) “ENVIRONMENTAL JUSTICE REVIEW” MEANS A WRITTEN REPORT
30 SUBMITTED TO THE DEPARTMENT THAT INCLUDES:

31 (1) A DESCRIPTION OF THE PROPOSED ACTION;

32 (2) A DESCRIPTION OF THE HISTORIC USES OF THE SITE OR
33 FACILITY ON WHICH THE PROPOSED ACTION WILL OCCUR;

1 **(3) A DEMOGRAPHIC PROFILE OF THOSE PERSONS WHO WILL BE**
2 **AFFECTED BY THE PROPOSED ACTION, INCLUDING THOSE PERSONS USING,**
3 **WORKING, OR LIVING ON OR WITHIN A 2-MILE RADIUS OF THE SITE OR FACILITY**
4 **ON WHICH THE PROPOSED ACTION WILL OCCUR;**

5 **(4) A DESCRIPTION OF POTENTIAL ADVERSE ENVIRONMENTAL**
6 **IMPACTS TO LAND, AIR, AND WATER RESOURCES WITHIN A 2-MILE RADIUS OF**
7 **THE SITE OR FACILITY ON WHICH THE PROPOSED ACTION WILL OCCUR;**

8 **(5) A DESCRIPTION OF POTENTIAL ADVERSE HUMAN HEALTH**
9 **IMPACTS TO THOSE PERSONS USING, WORKING, OR LIVING ON OR WITHIN A**
10 **2-MILE RADIUS OF THE SITE OR FACILITY ON WHICH THE PROPOSED ACTION**
11 **WILL OCCUR;**

12 **(6) A DESCRIPTION OF POTENTIAL ECONOMIC IMPACTS TO**
13 **THOSE PERSONS USING, WORKING, OR LIVING ON OR WITHIN A 2-MILE RADIUS**
14 **OF THE SITE OR FACILITY ON WHICH THE PROPOSED ACTION WILL OCCUR;**

15 **(7) A DESCRIPTION OF POTENTIAL ADVERSE AND CUMULATIVE**
16 **IMPACTS TO ENVIRONMENTALLY STRESSED COMMUNITIES CAUSED BY THE**
17 **PROPOSED ACTION; AND**

18 **(8) ANY PUBLIC EDUCATION OR COMMUNITY OUTREACH**
19 **EFFORTS THAT THE APPLICANT IS PLANNING TO CONDUCT BEFORE, DURING,**
20 **OR ON COMPLETION OF THE PROPOSED ACTION.**

21 **(F) “ENVIRONMENTALLY STRESSED COMMUNITY” MEANS A MINORITY**
22 **OR LOW-INCOME COMMUNITY THAT BEARS A DISPROPORTIONATE SHARE OF**
23 **THE NEGATIVE ENVIRONMENTAL CONSEQUENCES RESULTING FROM**
24 **INDUSTRIAL, MUNICIPAL, AND COMMERCIAL OPERATIONS OR THE EXECUTION**
25 **OF FEDERAL, STATE, OR LOCAL PROGRAMS AND POLICIES, AS DETERMINED BY**
26 **THE DEPARTMENT IN CONSULTATION WITH THE COMMISSION.**

27 **1-702.**

28 **ON OR BEFORE OCTOBER 1, 2013, THE DEPARTMENT, IN CONSULTATION**
29 **WITH THE COMMISSION AND THE DEPARTMENT OF HEALTH AND MENTAL**
30 **HYGIENE, SHALL DEVELOP MAPS THAT IDENTIFY ENVIRONMENTALLY**
31 **STRESSED COMMUNITIES IN THE STATE.**

32 **1-703.**

1 **(A) THE DEPARTMENT MAY NOT ISSUE OR RENEW THE FOLLOWING**
2 **PERMITS UNTIL THE PERMIT APPLICANT CONDUCTS AN ENVIRONMENTAL**
3 **JUSTICE REVIEW:**

4 **(1) AN AIR QUALITY CONTROL PERMIT TO CONSTRUCT ISSUED**
5 **UNDER § 2-404 OF THIS ARTICLE;**

6 **(2) A PERMIT TO INSTALL, MATERIALLY ALTER, OR MATERIALLY**
7 **EXTEND LANDFILL SYSTEMS, INCINERATORS FOR PUBLIC USE, OR RUBBLE**
8 **LANDFILLS ISSUED UNDER § 9-204 OF THIS ARTICLE;**

9 **(3) A PERMIT TO DISCHARGE POLLUTANTS TO WATERS OF THE**
10 **STATE ISSUED UNDER § 9-323 OF THIS ARTICLE;**

11 **(4) A PERMIT TO INSTALL, MATERIALLY ALTER, OR MATERIALLY**
12 **EXTEND A STRUCTURE USED FOR STORAGE OR DISTRIBUTION OF ANY TYPE OF**
13 **SEWAGE SLUDGE ISSUED, RENEWED, OR AMENDED UNDER § 9-236 OR § 9-238**
14 **OF THIS ARTICLE;**

15 **(5) A PERMIT TO OWN, ESTABLISH, OPERATE, OR MAINTAIN A**
16 **CONTROLLED HAZARDOUS SUBSTANCE FACILITY ISSUED UNDER § 7-232 OF**
17 **THIS ARTICLE;**

18 **(6) A PERMIT TO OWN, ESTABLISH, OPERATE, OR MAINTAIN A**
19 **HAZARDOUS MATERIAL FACILITY ISSUED UNDER § 7-103 OF THIS ARTICLE; AND**

20 **(7) A PERMIT TO OWN, ESTABLISH, OPERATE, OR MAINTAIN A**
21 **LOW-LEVEL NUCLEAR WASTE FACILITY ISSUED UNDER § 7-233 OF THIS**
22 **ARTICLE.**

23 **(B) THE DEPARTMENT SHALL DETERMINE, BASED ON THE FINDINGS IN**
24 **THE ENVIRONMENTAL JUSTICE REVIEW, WHETHER THE PROPOSED ACTION OR**
25 **THE CUMULATIVE IMPACT CAUSED BY THE PROPOSED ACTION WILL**
26 **DISPROPORTIONATELY AFFECT ENVIRONMENTALLY STRESSED COMMUNITIES.**

27 **(C) IF THE DEPARTMENT DETERMINES THAT A PROPOSED ACTION OR**
28 **THE CUMULATIVE IMPACT CAUSED BY THE PROPOSED ACTION WILL**
29 **DISPROPORTIONATELY AFFECT AN ENVIRONMENTALLY STRESSED COMMUNITY,**
30 **THE APPLICANT SHALL SUBMIT THE FOLLOWING TO THE DEPARTMENT BEFORE**
31 **COMMENCING THE PROPOSED ACTION:**

32 **(1) A LIST OF MULTIPLE ALTERNATIVE LOCATIONS ON WHICH**
33 **THE PROPOSED ACTION COULD OCCUR;**

1 **(2) A LIST OF MITIGATING ACTIONS THAT THE APPLICANT WILL**
2 **CONDUCT TO OFFSET THE PROPOSED IMPACTS; AND**

3 **(3) A LIST OF STRATEGIES AND ACTIONS THAT THE APPLICANT**
4 **WILL CONDUCT TO EDUCATE AND INFORM MEMBERS OF THE**
5 **ENVIRONMENTALLY STRESSED COMMUNITY OF THE PROPOSED ACTION.**

6 **(D) A PERSON THAT FAILS TO COMPLY WITH THE REQUIREMENTS OF**
7 **SUBSECTIONS (A) AND (C) OF THIS SECTION IS GUILTY OF A MISDEMEANOR AND**
8 **ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING \$50,000 FOR EACH**
9 **VIOLATION OR IMPRISONMENT NOT EXCEEDING 2 YEARS OR BOTH.**

10 **1-704.**

11 **THE DEPARTMENT MAY ADOPT REGULATIONS TO IMPLEMENT THIS**
12 **SUBTITLE.**

13 **1-705.**

14 (a) [In this section, “environmental justice” means equal protection from
15 environmental and public health hazards for all people regardless of race, income,
16 culture, and social status.

17 (b)] There is a Commission on Environmental Justice and Sustainable
18 Communities.

19 **[(c)] (B) (1) The Commission consists of the following 20 members:**

20 (i) One member of the Senate of Maryland, appointed by the
21 President of the Senate;

22 (ii) One member of the House of Delegates, appointed by the
23 Speaker of the House;

24 (iii) The Secretary, or the Secretary’s designee;

25 (iv) The Secretary of Health and Mental Hygiene, or the
26 Secretary’s designee;

27 (v) The Secretary of Planning, or the Secretary’s designee;

28 (vi) The Secretary of Business and Economic Development, or
29 the Secretary’s designee;

30 (vii) The Secretary of Housing and Community Development, or
31 the Secretary’s designee;

1 (viii) The Secretary of Transportation, or the Secretary's designee;
2 and

3 (ix) Twelve members appointed by the Governor who represent
4 the following interests:

5 1. Affected communities concerned with environmental
6 justice;

7 2. Business organizations;

8 3. Environmental organizations;

9 4. Health experts on environmental justice;

10 5. Local government; and

11 6. The general public with interest or expertise in
12 environmental justice.

13 (2) Of the twelve members appointed by the Governor under
14 paragraph (1)(ix) of this subsection, at least two members shall represent affected
15 communities concerned with environmental justice.

16 **[(d)] (C)** (1) The term of a member appointed by the Governor is 3 years.

17 (2) At the end of a term, a member continues to serve until a successor
18 is appointed and qualifies.

19 (3) A member who is appointed after a term has begun serves only for
20 the rest of the term and until a successor is appointed and qualifies.

21 (4) A member may not be appointed to more than two consecutive
22 terms.

23 **[(e)] (D)** The Governor shall designate the chairman of the Commission.

24 **[(f)] (E)** The Department shall provide staff for the Commission.

25 **[(g)] (F)** (1) The Commission shall meet at the times and places that the
26 chairman determines.

27 (2) A majority of members of the Commission shall constitute a
28 quorum for the transaction of business.

29 (3) A member of the Commission:

1 (i) May not receive compensation as a member of the
2 Commission; but

3 (ii) Is entitled to reimbursement for expenses under the
4 Standard State Travel Regulations, as provided in the State budget.

5 **[(h)] (G)** The Commission shall:

6 (1) Advise State government agencies on environmental justice and
7 related community issues;

8 (2) Review and analyze the impact of current State laws and policies
9 on the issue of environmental justice and sustainable communities;

10 (3) Assess the adequacy of State and local government laws to address
11 the issue of environmental justice and sustainable communities;

12 (4) Coordinate with the Children's Environmental Health and
13 Protection Advisory Council on recommendations related to environmental justice and
14 sustainable communities;

15 (5) Develop criteria to assess whether communities in the State may
16 be experiencing environmental justice issues; and

17 (6) Recommend options to the Governor for addressing issues,
18 concerns, or problems related to environmental justice that surface after reviewing
19 State laws and policies, including prioritizing areas of the State that need immediate
20 attention.

21 **[(i)] (H)** On or before October 1 of each year, the Commission shall report
22 its findings and recommendations to the Governor and, subject to § 2-1246 of the
23 State Government Article, the General Assembly.

24 SECTION 3. AND BE IT FURTHER ENACTED, That the Commission on
25 Environmental Justice and Sustainable Communities shall include in its annual
26 report an update of the implementation of this Act, including any policy or legislative
27 recommendations for the General Assembly's consideration.

28 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect
29 July 1, 2012.